

BP Amoco



EPA Region 5 Records Ctr.



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May 28, 1999

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U.S. Environmental Protection Agency
Region V
77 West Jackson Boulevard (C-29A)
Chicago, IL 60604

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Re: **Skinner Landfill**

Dear Ms. Estes:

As you may be aware, BP Exploration & Oil Inc. entered into a de minimis settlement agreement earlier this year with the Plaintiffs in the Skinner Landfill private cost recovery action in the United States District Court for the Southern District of Ohio. In addition to providing for settlement of Plaintiffs' claims regarding their past costs at the Skinner Site, that agreement requires certain of the Plaintiffs to seek to negotiate a de minimis settlement between BP Exploration & Oil Inc. and the United States (on behalf of the U.S. Environmental Protection Agency ("EPA")) that is at least as protective of the company's interest as are the terms of EPA's Model De Minimis Consent Decree set forth in the December 7, 1995 Federal Register.

It is BP Exploration & Oil Inc.'s understanding that EPA, Region V has now determined what information it will require in order to determine that BP Exploration & Oil Inc. qualifies for a de minimis settlement at this site. That information consists of: (i) the summary of each de minimis settlor's waste-in volume and percentage share of Site costs, as determined by the Allocator in the Final Allocation Report from the Skinner Alternative Dispute Resolution Process, and (ii) the narrative description of the Allocator's findings for each

Sherry Estes, Esq.

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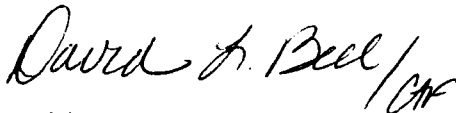
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de minimis settlor, as set forth in the Preliminary Allocation Report and, where the Allocator supplemented or altered those findings in the Final Allocation Report, the Final Allocation Report.

Accordingly, I am enclosing the information requested by EPA for BP Exploration & Oil Inc. I believe that this information amply demonstrates that BP Exploration & Oil Inc. is entitled to a de minimis settlement consistent with EPA's model de minimis settlement decree. BP Exploration & Oil Inc. understands that EPA and Plaintiffs in the private cost recovery litigation will allocate among themselves the monies to be paid by BP Exploration & Oil Inc. in settlement of the claims of Plaintiffs and the United States. By making this settlement offer, BP Exploration Oil Inc. does not acknowledge any liability for response costs at the Skinner Site.

In order to ensure that BP Exploration & Oil Inc. is able to avoid the incurrence of additional transaction costs in connection with the ongoing Skinner cost recovery litigation, BP Exploration & Oil Inc. strongly urges EPA to finalize an appropriate de minimis settlement as expeditiously as possible. Such timely action would fulfill the statutory objectives of Section 122(g) of CERCLA and EPA's de minimis settlement policies, as well as provide needed funds for response actions at the Skinner Site.

Sincerely,

A handwritten signature in cursive script, reading "David L. Bell" followed by a stylized flourish or initials.

David L. Bell
Senior Counsel

B.P. America

Settlement Amount: **\$5,627.09**

Excerpt from Allocator's Preliminary Report :

BP America operated "Sohio" or "Standard" service stations or franchised dealers to operate service stations in Ohio. It currently has approximately 120 active service stations within 25 miles of the Site, about one-half of which are dealer-operated.

During the relevant time period, many service stations have changed ownership several times and/or have been purchased or sold by BP. BP believes that prior to 1960, all stations within 25 miles of the Site were dealer-operated. BP submitted computer printouts listing company stations and the dates of purchase or lease. It took the position it had no liability for dealer stations and submitted no information on them.

Waste typically consisted of cardboard, paper and empty bottles and cans. Currently operating service stations typically utilize 6 cy dumpsters that are emptied twice a week. The range of container size would be from 4 cy to 8 cy depending on the size of the station. However, BP said that it did not find any evidence of the use of the Skinner Site. It had no waste disposal records that dated before 1990, however. Employees who were interviewed recalled Rumpke, BFI and Waste Management as haulers of BP owned and operated facilities "since the 1960s," the response stated.

BP stated that it has no information about disposal of removed storage tanks but, beginning in the 1970s and for the balance of the relevant time period, it transferred title to removed tanks to its contractor via a bill of sale for \$1.00. The company claimed that many stations have been acquired, divested or otherwise transferred to and from BP (Sohio) during the relevant time period. And that fact presents part of the difficulty of dealing with service station dealers. For example, in the period between dealers did BP run the station? It is too expensive to try to determine the answer to this question in this case.

The testimonial record looks like this. Maria Roy (p. 159-61) recalled some tanks from a Sohio branded station coming in and being resold. Elsa Skinner (p. 242-44) recalled that a person from a Sohio branded station asked if he could dump some waste at the Site. Elsa Skinner told him he could. She said he came in two times. She did not know what type of waste was brought to the Site. Ray Skinner recalled that some tanks came in along with dirt, blacktop and concrete from one or more Sohio branded-stations (p. 570). He knew the source based on what a driver had told him.

Finally, Charles Ringel, who was a driver for Sanders, said that he collected waste from two Sohio stations, one at Redding Road and Glendale-Milford Road in Evendale and one at Blue Ash Road in Rossmoyne in the 1962 - 1968 time period. The waste consisted mostly of paper and included towels (from cleaning windows), oil cans, oil filters, air filters. He said the waste was in 30-gallon drums. He said he collected 4-5 drums per station per week. Using an average of 4.5 drums per station, that amounts to nine drums per week. The Ringel time period is 6 years. Hence, Mr. Ringel's testimony equates to 440 cys (4.5 drums x 30 gallons per drum x 2 stations x 52 weeks x 6 years divided by 202).

MVM, Inc., a defendant and also a tank removal contractor, submitted a questionnaire response that explained that one of the disposal events linking it the Skinner Site involved a Sohio station. MVM said that it hauled to the Site about 50 tons of construction debris consisting of broken concrete, rock, concrete block, brick, steel and broken blacktop to the Site.

It argued that BP was the source of this waste. Assuming a density of 2000 pounds per cy, 50 tons would equal 50 cys. MVM itself estimated the amount at 40 cys. I am assigning one-half of this amount to BP, and one-half to MVM.

One of the limitations on any short-form allocation process is the inability to conduct full discovery. There is a reason for that. In just about any Superfund landfill cost recovery action, the cost of discovery vis-a-vis any individual party will in many cases equal or exceed the party's dollar allocation. That would certainly be true in the case of Sohio.

Waste-in Amount. While I am uncertain, on this record, whether the identified stations in the 1960s are orphans, company stores, interim company stores, or currently operated dealer locations, rather than wade through that maze, I have elected to assign BP an allocation of 245 cys. I have added one-half of MVM's estimate of 40 cys (i.e., 20 cys) to Mr. Ringel's 440 cys plus an assumed 10 cys from the other testimony and then I discounted the Ringel/other testimony amount by 50% to avoid the maze.

Final Allocation Recommendations in Alphabetical Order, Skinner Landfill Superfund Site, April 12, 1999

Name Of Party	Solid Waste In Cys	Liquid Waste In Gallons	Solid Waste In Total Cys 372906	Percentage	Liquid Waste In Total Gallons 282252	Percentage	Solid Waste	Liquid Waste	Owner/Operator & Part of Chem Dyne	Rest of Chem-Dyne	Total
BP AMERICA	245	0	372906	0.0657%	282252	0.0000%	0.01%	0.00%			0.00657%